IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21774 of 2003

Between:

1 J.Ramakrishna Prasad, S/O Sambasiva Rao,

Itanagar, Tenali, Guntur District.
2 J.Ravindranath Choudhary, S/O Sambasiva Rao,

Itanagar, Tenali, Guntur District.
3 Smt. J.Radha Rani, D/O Sambasiva Rao,

Itanagar, Tenali, Guntur District.
4 Smt. J. Bharatha Lakshmi W/o Sambasiva Rao
Itanagar, Tenali, Guntur District.

..... PETITIONER(S)

AND

1 Union of India, represented by its Secretary, Ministry of Law

and Justice, Sastry Bhavan, New Delhi.
2 Vijaya Bank, represented by its Branch Manager, Guntur

Branch, Guntur.
3 Arekapudi Constructions, represented by Sri A. Vara Prasad,

S/o Subba Rao, Flat No. 1, Pragathi Apartments, 5/2,

Chandramouli Nagar, Guntur-7.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the respondents in applying the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 to the facts of the case vide impugned notice dated 18.2.2003 issued by the respondent-Bank by declaring the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Secutiry Interest Act, 2002, more particularly Sections 13, 15 and 34 as arbitrary, illegal, unjust, contrary to law, unconstitutional, violative of rights guaranteed under Articles 14, 19 and contrary to Article 300-A of the Constitution of India.

For the Petitioner: Mr. C.NAGESWARA RAO, Advocate.

For Respondent No.1: MR .A.RAJASHEKAR REDDY (SC FOR CG).

For Respondent No. 2: Mr. E. Ajay Reddy, Advocate.

For Respondent No. 3: None.

The Court made the following Order: (per Sri B. Sudershan Reddy, J)

The constitutional validity of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002) (for short 'the

Act') has been upheld by the Supreme Court in the decision rendered in Transfer Case (Civil) No. 92-95 of 2002 dated 8.4.2002 (MARDIA CHEMICALS LTD. Vs. UNION OF INDIA & ORS) except sub-section (2) of Section 17 of the Act which was declared as ultra vires of Article 14 of the Constitution of India.

Following the said decision, the writ petition shall stand dismissed without costs.

However, the petitioners are entitled to avail the remedies as provided for under the Act including filing of appeal under Section 17 of the Act within the period of limitation prescribed therefor to be counted from today. No other relief is granted. Consequently, the interim order earlier granted by this Court shall stand vacated.

(B. Sudershan Reddy, J)

13..08..2004

(K.C. Bhanu, J)

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ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1 Secretary, Ministry of Law and Justice, Union of India, Sastry

Bhavan, New Delhi.
2 Branch Manager, Vijaya Bank, Guntur Branch, Guntur.
3 2 CD copies.